

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

CHARLES WYNOTT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket no. 08-cv-61-P-S
	)	
CORRECTIONAL MEDICAL	)	
SERVICES, INC., et al.,	)	
	)	
	)	
Defendants.	)	

**ORDER ON MOTION FOR LEAVE TO AMEND COMPLAINT**

Before the Court is Plaintiff's pro se Motion for Leave to File an Amended Complaint (Docket # 31). Defendant Correctional Medical Services, Inc. ("CMS") has responded to the Motion indicating that it does not object to Plaintiff's proposed amendment except to the extent that it seeks to state a claim against CMS under the ADA (Count II). In its response, Defendant notes that any amended complaint seeking to press this claim would be futile. Plaintiff filed no timely reply.

In light of the Court's May 13, 2008 Order Affirming the Recommended Decision (Docket # 40), which GRANTED the Motion to Dismiss Count II, the Court agrees that the Amended Complaint cannot be allowed to the extent that it seeks to restate a claim under Title II of the ADA against CMS. Therefore, Plaintiff's Motion to Amend the Complaint is hereby GRANTED IN PART. The Clerk is hereby directed to file the Complaint (Docket # 31-2) attached to Plaintiff's Motion to Amend as the Amended Complaint and it will thereby become the operative pleading going forward in this matter.

However, to the extent that this Amended Complaint can be read to state a claim against CMS under the ADA (Count II), the Court's May 13, 2008 Order stands and that claim is dismissed. In the Court's view what remains is Plaintiff's claim under 42 U.S.C. § 1983 (Count I), which the Court will read as being pressed against both CMS and Cumberland County Jail, which has yet to enter an appearance.

As explained herein, Plaintiff's Motion to Amend is GRANTED IN PART and DENIED IN PART.

SO ORDERED.

/s/ George Z. Singal  
Chief U.S. District Judge

Dated this 14th day of May, 2008.